

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

In Re DMCA Subpoena to Facebook, Inc.

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Case No. 7:18-mc-00471-CS

Honorable Cathy Seibel

MELANIE JEAN-NOEL, an attorney duly admitted to practice law before the courts of the State of New York, hereby affirms the following to be true under penalty of perjury:

1. I am an Associate General Counsel of Watch Tower Bible and Tract Society of Pennsylvania (“Watch Tower”). As such, I am fully familiar with the facts of this matter as set forth herein based upon my review of the file and personal knowledge.

2. Watch Tower never consented to electronic service of objections to the subpoena in this matter.

3. I never received an objection letter from Facebook, Inc. (“Facebook”) or its counsel in this matter. The first time that I saw Facebook’s objection letter was in connection with the filing of Facebook’s opposition to Watch Tower’s motion for contempt.

4. On December 3, 2018, I wrote to Facebook regarding its failure to comply with or respond to the DMCA subpoena obtained from the Clerk of the Court in the 7:18-mc-00471-CS matter. *See* Letter from Melanie Jean-Noel to Facebook, Inc. dated Dec. 3, 2018 and UPS Delivery Confirmation dated Dec. 4, 2018 attached hereto as Composite Exhibit 1. I wrote to Facebook again on December 26, 2018 and for a third time on January 9, 2019.

5. In addition to the three requests to meet and confer, I also sent Facebook a copy of Watch Tower’s letter to this Court requesting a pre-motion conference on January 24,

2019. *See* UPS Delivery Confirmation dated Jan. 25, 2019 attached hereto as Exhibit 2. Facebook never responded to the Court or Watch Tower.

6. Watch Tower emailed the Order to Show Cause in this matter to subpoena@facebook.com on January 31, 2019 at 3:26 p.m. eastern standard time (“EST”), which would have been 12:26 p.m. pacific standard time (“PST”). *See* Email from Watch Tower to Facebook Legal Enforcement Team dated Jan. 31, 2019 attached hereto as Exhibit 3. Facebook acknowledged receipt of the subpoena on the same day at 3:30 p.m. EST, which would have been 12:30 p.m. PST. *See* Email from Facebook Legal Enforcement Team to Watch Tower dated Jan. 31, 2019 attached hereto as Exhibit 4.

7. The subpoena in this matter included three URLs linking directly to the infringing user’s account. *See* DMCA Subpoena to Facebook, Inc. dated Oct. 17, 2018 attached hereto as Exhibit 5. The URLs provided in the subpoena were the same URLs provided in the DMCA notice forming the basis for Watch Tower’s request for issuance of the DMCA subpoena in this matter. Facebook responded to the DMCA notice sent by Watch Tower regarding the infringements forming the basis for this subpoena. Its response indicated no difficulty in locating the infringing user or the infringing content. *See* Email from Facebook to Watch Tower dated Oct. 9, 2018 attached hereto as Exhibit 6.

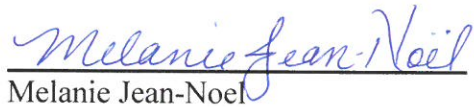
8. When Facebook’s counsel, Mr. Roche, called me on February 11, 2019, he indicated that Facebook needed an additional URL to the cover page of the infringing account. I indicated to Mr. Roche that Watch Tower could not unilaterally issue an amended subpoena because DMCA subpoenas are approved by the Court and issued by the Clerk of Court. Mr. Roche requested that I simply write the additional URL on the original subpoena and email it to him. In an effort to facilitate swift compliance with the subpoena and avoid the need for

further court intervention, I accommodated Mr. Roche's request.

9. Facebook knew or could have known Mr. Polidoro's correct email address because it previously complied with at least three other Watch Tower DMCA subpoenas via email to Mr. Polidoro at his 'jw.org' email address.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 25, 2019
Patterson, New York


Melanie Jean-Noel

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